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7590	10/16/2006		EXAMINER	
DINSMORE & SHOHL LLP Suite 500 One Dayton Centre Dayton, OH 45402-2023			BATTULA, PRADEEP CHOUDARY	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

NT

<b>Office Action Summary</b>	<b>Application No.</b> 10/693,469	<b>Applicant(s)</b> REFFETT, TED J.	
	<b>Examiner</b> Pradeep C. Battula	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,8-22,29-33 and 35-41 is/are pending in the application.
- 4a) Of the above claim(s) 7,23-28 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-22,29-33 and 35-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/12/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### ***Election/Restrictions***

Applicant's election of Claims 1 – 6, 8 – 22, 29 – 33, and 35 - 41 in the reply filed on September 25, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

The examiner disagrees with Claim 12 being drawn to the elected species considering the claim pertains to a release liner that does not exist inside the first printable region. Applicant shows that release liner exists inside the first printable region.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 37 – 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Blank (U.S. Pub. 2004/0195824).

In regards to Claim 37, Blank discloses a combination packing list and shipping label form 10 configured to be affixed to an object, said form comprising: a packing list

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first ply 12 comprising a front and a back opposite said front (Figure 4, Item 12); a first line of weakness 24 formed in said front of said packing list first ply such that a first printable region 32 is bounded (Paragraph 18, Lines 1- 5) by said packing list first line of weakness, said first printable region configured to accept printed indicia thereon (Paragraph 18, Lines 1- 5); a patterned release layer 44 facing said back of said packing list first ply; an adhesive layer 20 facing each of said back of said packing list first ply and said patterned release layer; a packing list second ply 18 comprising a front and a back opposite said front (Figure 4, Items 12, 18, 20, 44), said packing list second ply facing said adhesive layer such that at least a portion of said front of said second ply is bonded to at least a portion of said back of said first ply (Paragraph 29, Lines 1 – 9; Figure 4, Item 20, 44) to define a multi-ply label; a packing list second line of weakness 38 formed in said back of said packing list second ply such that a second printable region 40 is bounded by said packing list second line of weakness (Paragraph 28, Lines 1 – 4; Figure 3, Items, 38 40); and a shipping label 16 contiguous with said packing list, said shipping label comprising: a shipping label first ply 12 comprising a front and a back opposite said front (Figures 1,2, Item 16) said front configured to receive variable indicia printed thereon (Paragraph 18); a shipping label line of weakness formed 24 in said front of said shipping label first ply such that a shipping label printable region is bounded by said shipping label line of weakness (Paragraph 18), said shipping label printable region (not numbered) configured to accept printed indicia thereon (Paragraph 18); an adhesive layer 20 facing said back of said shipping label first ply ; a release layer facing at least a portion of said adhesive layer (Inherent

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since it is an adhesive removable label); and a shipping label second ply comprising a front and a back opposite said front such that said front of said shipping label second ply faces said release layer (Inherent since the label is adhesive and removable from the form).

In regards to Claim 38, as applied to Claim 37, Blank further discloses said packing list second line 38 of weakness is disposed substantially coextensive with said packing list first line of weakness 24 (Figure 4, Items 24, 38).

In regards to Claim 39, as applied to Claim 37, Blank further discloses a separable region disposed about said packing list second line of weakness 38; and a border region disposed about said shipping label 16 line of weakness 24 (Paragraph 18; Figure 1, Item 24; Paragraph 29, Lines 1 – 9; Figure 3, Items 14, 40).

In regards to Claim 40, as applied to Claim 39, said separable region comprises said packing list second printable region 40 and an affixing region 34 adjacent said packing list second printable region (Paragraph 31, Lines 1 – 5; Figure 3, Items 34, 40).

In regards to Claim 41, as applied to Claim 37, said form is configured such that said fronts of said first plies of said shipping label 16 and said packing list 14 are substantially coplanar with one another (Figure 1, Items 14, 16).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 3, 6, 8 – 22, 29 – 33, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blank (U.S. Pub. 2004/0195824).

In regards to Claim 1, Blank discloses an adhesive form 10 comprising: a first ply 12 comprising a front and a back opposite said front (Figure 4), said front comprising a first ply first printable region (Figure 1, Items 30, 32) and a first ply second printable region 32 disposed thereon (Paragraph 20, Lines 1 – 7), each of said first ply printable regions separable from said first ply along a respective line of weakness 24 that extends there through (Paragraph 18, Lines 1- 5); a second ply 18 comprising a front and a back opposite said front (Figure 4), said front of said second ply and said back of said first ply being disposed to face one another such that a substantially stacked relation is defined by said first and second plies (Paragraph 29, Figure 4), said back of said second ply defining a separable region comprising: a second ply printable region disposed therein 40, said second ply printable region separable from said second ply along a line of weakness 38 that extends there through such that (Paragraph 28, Lines 1 – 4), when said first and second plies are in said substantially stacked relationship, said second ply printable region is substantially coextensive with said first ply first printable region (Paragraph 29; Figures 3, 4); and an affixing region adjacent said second ply printable

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region (Paragraph 22, Lines 1 – 4; Figure 3, Item 20); an adhesive layer 20 disposed between at least a portion of said back of said first ply and said front of said second ply such that a bond is formed there between (Paragraph 29, Lines 1 – 9; Figure 4, Items 12, 18, 20).

Blank does not disclose a release layer 44 disposed between at least a portion of said back of said first ply and said front of said second ply but only on the front of the second ply (Paragraph 29, Lines 1 – 4; Figure 4). Blank discloses the claimed invention except for the release liner being on both the first and second ply but, Blank's invention shows the release liner being disposed in the same manner as the applicant as shown in Figure 4. The only difference relies on how the second removable label (which applicant claims as a shipping label) is oriented. The end product of applicant and Blank's invention is the same; the only difference in the structure is a rearrangement of parts. It would have been obvious to one having ordinary skill in the art at the time the invention was made to switch the adhesive and release liner because it would yield the same invention and it has been held that rearranging parts of an invention involves only routine skill in the art.

Blank further discloses said release layer and said adhesive layer configured to allow selective removal of a first label 14 defined by said separable region (Figure 3) and said first ply first printable region such that, upon said removal of said first label, said adhesive layer disposed on said front of said second ply opposite said affixing region becomes exposed such that said first label can be adhesively affixed to an object (Paragraph 23, Lines 7 – 12; Figure 3), said release layer and said adhesive layer

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further configured to allow selective removal of a second label 16 defined by said first ply second printable region, said second label including a portion of said adhesive layer 20 that, upon said removal of said second label, becomes exposed such that said second label can subsequently be affixed to an object (Paragraph 16), wherein said form is configured such that at least said printable regions on each said first and second labels corresponding to said first ply can accept printed indicia thereon from a single pass through an automated simplex printing device (Paragraph 20, Figure 1).

In regards to Claim 2, as applied to Claim 1, Blank further discloses said separable region 40 is at least partially bounded along a cut line 38 that extends depth-wise through at least said second ply. With respect to line 38 being lengthwise substantially from one edge of said second ply to another, the applicant does not show a line such as this in the drawings nor does applicant explain the criticality of such a line.

In regards to Claim 3, as applied to Claim 1, Blank further discloses said second ply printable region 40 is permanently adhered to said first ply first printable region (Paragraph 29).

In regards to Claim 6, as applied to Claim 1, Blank further discloses said first ply second printable region is disposed laterally adjacent said first ply first printable region on said form (Figure 1, Items 14, 16).

In regards to Claim 8 as applied to Claim 1 and Claim 9 as applied to Claim 8, Blank discloses the claimed invention except for the specific arrangement and/or content of indicia (packing list and shipping information) set forth in the claim(s). It has



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been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of information does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the form comprising indicia is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional relationship between the printed matter (packing list and shipping information) and the substrate (first and second plies) which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

In regards to Claim 10, as applied to Claim 8, Blank further discloses said adhesive layer 20 is disposed across a substantial entirety of said front of said second ply 18 that corresponds to said packing list (Figure 4, Items 18, 20).

In regards to Claim 11, as applied to Claim 10, Blank further discloses said adhesive layer 20 is disposed across a substantial entirety of said back of said first ply 12 corresponding to said second label (Figure 4, Items 12, 20).

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In regards to Claim 12 as applied to Claim 10, Blank further discloses that it is possible for cut 36, a line further isolation first printable region 32 (Figure 3, Item 36) and cut 38 to align but it is preferred that they do not because it might push adhesive to the surface and cause problems in the printing process by jamming in the printer (Paragraph 28, Lines 1 – 13). If the alignment was made then the first printable region 32 would only have release liner outside the first printable portion (Figure 4, Items 36, 38).

In regards to Claim 13, as applied to Claim 1, Blank further discloses wherein at least one of said lines of weakness comprises a full die cut (Paragraph 18, Lines 1 – 4).

In regards to Claim 14, as applied to Claim 1, Blank further discloses wherein at least one of said lines of weakness comprises a perforated die cut. There is a further perforated die cut 36 that help with separation of the portion 40 from the form (Paragraph 21, Lines 8 – 10).

In regards to Claim 15, as applied to Claim 1, Blank further discloses wherein at least one of said lines of weakness is substantially rectangular in shape (Figure 1, Item 24).

In regards to Claim 16, as applied to Claim 15, Blank further discloses said lines of weakness 24 corresponding to said first 14 and second labels 16 in said first ply 12 are full die cuts (Paragraph 18, Lines 1 – 5).

Blank does not disclose said line of weakness 38 corresponding to said first label in said second ply is a perforated die cut.

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Blank further discloses a perforated die cut 36 on the first ply (Paragraph 28, Lines 1 – 8) works in conjunction with die cut 38 and Blank further discloses that certain modifications shall be apparent to those skilled in the art. It only requires routine skill in the art to use the cutting methods as disclosed for cut 36 and use it for cut 38 as well.

In regards to Claim 17, as applied to Claim 16, Blank further discloses that at least one corner defined in said perforated die cut comprises a full die cut (Paragraph 28, Lines 1 – 8). This is with respect to the slits 36. Slits are general and can be on just the surface in small gaps or in long strokes all the way through a surface and remaining layers. Therefore the slits can be full die cuts and this meets the claim requirements.

In regards to Claim 18, Blank discloses a second ply 18 that is capable of receiving pre-printed information on its back side 40 considering that it is just a ply.

In regards to Claims 19 – 21, Blank discloses the claimed invention except for the specific arrangement and/or content of indicia (instructional, product, or linking indicia) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of information does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the form comprising indicia is the same structure claimed by applicant and the sole difference is in the content of the printed material.

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Thus, there is no novel and unobvious functional relationship between the printed matter (instructional, product, or linking indicia) and the substrate (first and second plies) which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

In regards to Claim 22, as applied to Claim 21, said indicator is a generally rectangular line 24 printed to circumscribe said first and second labels (Figure 1, Item 24).

In regards to Claim 29, Blank discloses a multi-label form 10 configured such that each label 12 and 16 can accept variable simplex printing on at least one surface thereof and be separately affixed to an object (Paragraph 18), said form comprising: a first label 14 comprising: a first ply comprising a front and a back opposite said front (Figures 1,2, Item 14), said front configured to receive variable printed indicia thereon (Paragraph 18); a first ply 12 line of weakness extending through said first ply 24, said first ply line of weakness defining a border in said back of said first ply (Paragraph 18, Lines 1- 5; Figures 1, 4, Item 24); said first ply line 24 of weakness substantially circumscribing a first printable region 32 in said front of said first ply; a first adhesive layer 20 in contact with each of said back of said first ply 12 and said first release layer 44 (Figure 4, Items 12, 20, 44); a second ply 18 comprising a front and a back opposite said front (Figure 4), said back of said second ply capable of receiving printed indicia thereon, since it is a ply, said front of said second ply in contact with said first adhesive

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layer such that a bond between said first and second plies is formed (Paragraph 29, Lines 1 – 9; Figure 4, Items 12, 18, 20); a second ply line of weakness 38 extending through said second ply, said second ply line of weakness defining a border substantially circumscribing a second ply printable region in said back of said second ply such that an area encompassing at least said second ply printable region 40 and said border is defined (Paragraph 28, Lines 1 – 4; Figure 2, Items 38, 40); and a cut line 38 formed in said second (should be first?) ply to define an edge of said area and to facilitate separation of said first label 14 from said form 10, said cut line and said lines of weakness 38 and 24 configured such that upon removal of said first label from said form along said cut line, said bonded plies remain attached to said border formed in said area, while a portion of said first adhesive layer that remains disposed on said second ply opposite said border becomes exposed such that said first label can be adhesively affixed to said object (Paragraph 23, Lines 7 – 12; Figure 3, Items 14, 20, 24, 38, 40; Figure 4 Items 24, 38); and a second label 16 disposed adjacent said first label (Figure 1, Items 14,16), said second label comprising: a first ply 12 having a front and a back opposite said front (Figures 2,4), said front of said second label capable of receiving variable printed indicia thereon (Paragraph 18); a second adhesive layer 20 disposed in contact with said back of said second label first ply (Figures 1,2 for label 16 side); a first ply line of weakness 24 (on label 16) extending through said second label first ply and substantially circumscribing a second printable (Figure 1, Item 16) region in said front of said first ply (Paragraph 18); a second release layer 44 disposed in contact with said second adhesive layer (Inherent since label 16 is a removable adhesive label

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requiring the release layer below the adhesive); and a second ply 18 comprising a front and a back opposite said front (Figure 4, Item 18), said front of said second ply in contact with said second adhesive layer and said second release layer such that a bond between said second label first and second plies is formed, said second label configured such that upon removal of said second printable region from the remainder of said first ply, said second adhesive layer present on said back of said second print region can be placed in contact with said object to affix said second label thereto (Inherent since it is a removable adhesive layer requiring release layer to be under adhesive).

Blank does not disclose said first ply line of weakness defining a border in said back of said first ply has a release liner substantially disposed and in contact with the back of the first ply.

Blank discloses the claimed invention except for having the adhesive and release liner in switched positions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to move the cuts (required for applicants invention to work) around and have the adhesive and release liner in switched position, since it has been held that rearranging parts of an invention involves only routine skill in the art.

In regards to Claim 30, as applied to Claim 29, Blank further discloses that the release layer 44 is patterned (Paragraph 29, Lines 5 – 9).

In regards to Claim 31, as applied to Claim 29, Blank further discloses that the first release layer and second release layer (Figure 4, two separate Items 44) are both of component 44 and listed as a singular release agent (Paragraph 29, Lines 1 – 4).

In regards to Claim 32, as applied to Claim 29, Blank further discloses that the first and second adhesive layers 20 comprise the same constituent materials (Paragraph 16, Lines 1 – 6; Paragraph 22, Lines 1 – 4) since one of the two layers is a replacement layer to the gap created by the lack of release liner 44.

In regards to Claim 33, as applied to Claim 29, Blank further discloses said front of said first label 14 is substantially coplanar with said front of said second label 16 (Figure 1).

In regards to Claim 35 and 36, as applied to Claim 29, Blank discloses the claimed invention except for the specific arrangement and/or content of indicia (packing list or shipping information) set forth in the claim(s). It has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack*, 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of information does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability.

The examiner asserts that the form and labels comprising shipping and material information is the same structure claimed by applicant and the sole difference is in the content of the printed material. Thus, there is no novel and unobvious functional

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relationship between the printed matter (shipping and packing list information) and the substrate (first and second plies) which is required for patentability.

Accordingly, there being no functional relationship of the printed material to the substrate, as noted above, there is no reason to give patentable weight to the content of the printed matter which, by itself, is non-statutory subject matter.

Claims 4 and 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Blank (U.S. Pub. 2004/0195824) in view of Konkol (U.S. 5,518,787).

In regards to Claims 4 and 5, as applied to Claim 1, Blank does not disclose that the form 10 is a cut sheet. Blank also does not disclose that the form is a continuous flat pack or roll.

Konkol teaches of a multi-layered card construction that can be produced as a cut sheet or a roll product (Column 4, Lines 6 – 7). Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to produce Blank's invention as a roll or cut sheet in order to allow for the form to be produced on a mass level and allowing the user to conveniently take a needed supply when necessary.



**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pradeep C. Battula whose telephone number is 571-272-2142. The examiner can normally be reached on Monday - Friday 7:00AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PCB  
Patent Examiner  
October 3, 2006

  
MONICA CARTER  
SUPERVISORY PATENT EXAMINER